

§ 229.135

one location on the front of the locomotive, that flash alternately with beams within five degrees horizontally to either side of the longitudinal centerline of the locomotive.

(ii) An oscillating light may incorporate a device that automatically extinguishes the white light if display of a light of another color is required to protect the safety of railroad operations.

(3) *Crossing lights.* (i) Crossing lights shall consist of two white lights, placed at the front of the locomotive, at least 36 inches above the top of the rail.

(ii) Crossing lights shall be spaced at least 36 inches apart if the vertical distance from the headlight to the horizontal axis of the ditch lights is 60 inches or more.

(iii) Crossing lights shall be spaced at least 60 inches apart if the vertical distance from the headlight to the horizontal axis of the ditch lights is less than 60 inches.

(iv) Each crossing light shall produce at least 200,000 candela, either steadily burning or alternately flashing.

(v) The flash rate of crossing lights shall be at least 40 flashes per minute and at most 180 flashes per minute.

(vi) Crossing lights shall be focused horizontally within 15 degrees of the longitudinal centerline of the locomotive.

(4) *Oscillating light.* (i) An oscillating light shall consist of:

(A) One steadily burning white light producing at least 200,000 candela in a moving beam that depicts a circle or a horizontal figure "8" to the front, about the longitudinal centerline of the locomotive; or

(B) Two or more white lights producing at least 200,000 candela each, at one location on the front of the locomotive, that flash alternately with beams within five degrees horizontally to either side of the longitudinal centerline of the locomotive.

(ii) An oscillating light may incorporate a device that automatically extinguishes the white light if display of a light of another color is required to protect the safety of railroad operations.

(c)(1) Any lead locomotive equipped with oscillating lights as described in paragraph (b)(2) of this section that

49 CFR Ch. II (10–1–12 Edition)

were ordered for installation on that locomotive prior to January 1, 1996, is considered in compliance with § 229.125(d)(1) through (3).

(2) Any lead locomotive equipped with strobe lights as described in paragraph (b)(1) and operated at speeds no greater than 40 miles per hour, is considered in compliance with § 229.125(d)(1) through (3) until the locomotive is retired or rebuilt, whichever comes first.

(3) Any lead locomotive equipped with two white auxiliary lights spaced at least 44 inches apart on at least one axis which was equipped with these auxiliary lights before May 30, 1994, will be considered in compliance with § 229.125(d)(1) through (3) until the locomotive is retired or rebuilt, whichever comes first.

[58 FR 6902, Feb. 3, 1993, as amended at 59 FR 24963, May 13, 1994; 59 FR 39705, Aug. 4, 1994; 61 FR 8887, Mar. 6, 1996; 77 FR 21348, Apr. 9, 2012]

§ 229.135 Event recorders.

(a) *Duty to equip and record.* Except as provided in paragraphs (c) and (d) of this section, a train operated faster than 30 miles per hour shall have an in-service event recorder, of the type described in paragraph (b) of this section, in the lead locomotive. The presence of the event recorder shall be noted on Form FRA F6180–49A (by writing the make and model of event recorder with which the locomotive is equipped) under the REMARKS section, except that an event recorder designed to allow the locomotive to assume the lead position only if the recorder is properly functioning is not required to have its presence noted on Form FRA F6180–49A. For the purpose of this section, "train" includes a locomotive or group of locomotives with or without cars. The duty to equip the lead locomotive may be met with an event recorder located elsewhere than the lead locomotive provided that such event recorder monitors and records the required data as though it were located in the lead locomotive. The event recorder shall record the most recent 48 hours of operation of the electrical system of the locomotive on which it is installed.

(b) *Equipment requirements.* Event recorders shall monitor and record data elements required by this paragraph with at least the accuracy required of the indicators displaying any of the required elements to the engineer.

(1) A lead locomotive originally ordered before October 1, 2006, and placed in service before October 1, 2009, including a controlling remote distributed power locomotive, a lead manned helper locomotive, a DMU locomotive, and an MU locomotive, except as provided in paragraphs (c) and (d) of this section, shall have an in-service event recorder that records the following data elements:

- (i) Train speed;
- (ii) Selected direction of motion;
- (iii) Time;
- (iv) Distance;
- (v) Throttle position;
- (vi) Applications and operations of the train automatic air brake;
- (vii) Applications and operations of the independent brake;
- (viii) Applications and operations of the dynamic brake, if so equipped; and
- (ix) Cab signal aspect(s), if so equipped and in use.

(2) A locomotive originally manufactured before October 1, 2006, and equipped with an event recorder that uses magnetic tape as its recording medium shall have the recorder removed from service on or before October 1, 2009 and replaced with an event recorder with a certified crashworthy event recorder memory module that meets the requirements of appendix D of this part and that records at least the same number of data elements as the recorder it replaces.

(3) A lead locomotive, a lead manned helper locomotive, and a controlling remotely distributed power locomotive, other than a DMU or MU locomotive, originally ordered on or after October 1, 2006 or placed in service on or after October 1, 2009, shall be equipped with an event recorder with a certified crashworthy event recorder memory module that meets the requirements of Appendix D of this part. The certified event recorder memory module shall be mounted for its maximum protection. (Although other mounting standards may meet this standard, an event recorder memory

module mounted behind and below the top of the collision posts and above the platform level is deemed to be mounted "for its maximum protection.") The event recorder shall record, and the certified crashworthy event recorder memory module shall retain, the following data elements:

- (i) Train speed;
- (ii) Selected direction of motion;
- (iii) Time;
- (iv) Distance;
- (v) Throttle position;
- (vi) Applications and operations of the train automatic air brake, including emergency applications. The system shall record, or provide a means of determining, that a brake application or release resulted from manipulation of brake controls at the position normally occupied by the locomotive engineer. In the case of a brake application or release that is responsive to a command originating from or executed by an on-board computer (*e.g.*, electronic braking system controller, locomotive electronic control system, or train control computer), the system shall record, or provide a means of determining, the involvement of any such computer;
- (vii) Applications and operations of the independent brake;
- (viii) Applications and operations of the dynamic brake, if so equipped;
- (ix) Cab signal aspect(s), if so equipped and in use;
- (x) End-of-train (EOT) device loss of communication front to rear and rear to front;
- (xi) Electronic controlled pneumatic braking (ECP) message (and loss of such message), if so equipped;
- (xii) EOT armed, emergency brake command, emergency brake application;
- (xiii) Indication of EOT valve failure;
- (xiv) EOT brake pipe pressure (EOT and ECP devices);
- (xv) EOT marker light on/off;
- (xvi) EOT "low battery" status;
- (xvii) Position of on/off switch for headlights on lead locomotive;
- (xviii) Position of on/off switch for auxiliary lights on lead locomotive;
- (xix) Horn control handle activation;
- (xx) Locomotive number;
- (xxi) Locomotive automatic brake valve cut in;

(xxii) Locomotive position in consist (lead or trail);

(xxiii) Tractive effort;

(xxiv) Cruise control on/off, if so equipped and in use; and

(xxv) Safety-critical train control data routed to the locomotive engineer's display with which the engineer is required to comply, specifically including text messages conveying mandatory directives and maximum authorized speed. The format, content, and proposed duration for retention of such data shall be specified in the Product Safety Plan or PTC Safety Plan submitted for the train control system under subparts H or I, respectively, of part 236 of this chapter, subject to FRA approval under this paragraph. If it can be calibrated against other data required by this part, such train control data may, at the election of the railroad, be retained in a separate certified crashworthy memory module.

(4) A DMU locomotive and an MU locomotive originally ordered on or after October 1, 2006 or placed in service on or after October 1, 2009, shall be equipped with an event recorder with a certified crashworthy event recorder memory module that meets the requirements of Appendix D of this part. The certified event recorder memory module shall be mounted for its maximum protection. (Although other mounting standards may meet this standard, an event recorder memory module mounted behind the collision posts and above the platform level is deemed to be mounted "for its maximum protection.") The event recorder shall record, and the certified crashworthy event recorder memory module shall retain, the following data elements:

(i) Train speed;

(ii) Selected direction of motion;

(iii) Time;

(iv) Distance;

(v) Throttle position;

(vi) Applications and operations of the train automatic air brake, including emergency applications. The system shall record, or provide a means of determining, that a brake application or release resulted from manipulation of brake controls at the position normally occupied by the locomotive engi-

neer. In the case of a brake application or release that is responsive to a command originating from or executed by an on-board computer (*e.g.*, electronic braking system controller, locomotive electronic control system, or train control computer), the system shall record, or provide a means of determining, the involvement of any such computer;

(vii) Applications and operations of the independent brake, if so equipped;

(viii) Applications and operations of the dynamic brake, if so equipped;

(ix) Cab signal aspect(s), if so equipped and in use;

(x) Emergency brake application(s);

(xi) Wheel slip/slide alarm activation (with a property-specific minimum duration);

(xii) Lead locomotive headlight activation switch on/off;

(xiii) Lead locomotive auxiliary lights activation switch on/off;

(xiv) Horn control handle activation;

(xv) Locomotive number;

(xvi) Locomotive position in consist (lead or trail);

(xvii) Tractive effort;

(xviii) Brakes apply summary train line;

(xix) Brakes released summary train line;

(xx) Cruise control on/off, if so equipped and used; and

(xxi) Safety-critical train control data routed to the locomotive engineer's display with which the engineer is required to comply, specifically including text messages conveying mandatory directives and maximum authorized speed. The format, content, and proposed duration for retention of such data shall be specified in the Product Safety Plan or PTC Safety Plan submitted for the train control system under subparts H or I, respectively, of part 236 of this chapter, subject to FRA approval under this paragraph. If it can be calibrated against other data required by this part, such train control data may, at the election of the railroad, be retained in a separate certified crashworthy memory module.

(5) A locomotive equipped with an event recorder that is remanufactured, as defined in this part, on or after October 1, 2007, shall be equipped with an

event recorder with a certified crash-worthy event recorder memory module that meets the requirements of appendix D to this part and is capable of recording, at a minimum, the same data as the recorder that was on the locomotive before it was remanufactured.

(6) An event recorder originally manufactured after January 1, 2010, that is installed on any locomotive identified in paragraph (b)(1) of this section shall be an event recorder with a certified crashworthy event recorder memory module that meets the requirements of appendix D to this part and that is capable of recording, at a minimum, the same data as the event recorder that was previously on the locomotive.

(c) *Removal from service.* Notwithstanding the duty established in paragraph (a) of this section to equip certain locomotives with an in-service event recorder, a railroad may remove an event recorder from service and, if a railroad knows that an event recorder is not monitoring or recording required data, shall remove the event recorder from service. When a railroad removes an event recorder from service, a qualified person shall record the date that the device was removed from service on Form FRA F6180-49A, under the REMARKS section, unless the event recorder is designed to allow the locomotive to assume the lead position only if the recorder is properly functioning.

(d) *Response to defective equipment.* Notwithstanding the duty established in paragraph (a) of this section to equip certain locomotives with an in-service event recorder, a locomotive on which the event recorder has been taken out of service as provided in paragraph (c) of this section may remain as the lead locomotive only until the next calendar-day inspection. A locomotive with an inoperative event recorder is not deemed to be in improper condition, unsafe to operate, or a non-complying locomotive under §§ 229.7 and 229.9, and, other than the requirements of appendix D of this part, the inspection, maintenance, and testing of event recorders are limited to the requirements set forth in §§ 229.25(e) and 229.27(d).

(e) *Preserving accident data.* If any locomotive equipped with an event re-

recorder, or any other locomotive-mounted recording device or devices designed to record information concerning the functioning of a locomotive or train, is involved in an accident/incident that is required to be reported to FRA under part 225 of this chapter, the railroad that was using the locomotive at the time of the accident shall, to the extent possible, and to the extent consistent with the safety of life and property, preserve the data recorded by each such device for analysis by FRA. This preservation requirement permits the railroad to extract and analyze such data, provided the original downloaded data file, or an unanalyzed exact copy of it, shall be retained in secure custody and shall not be utilized for analysis or any other purpose except by direction of FRA or the National Transportation Safety Board. This preservation requirement shall expire one (1) year after the date of the accident unless FRA or the Board notifies the railroad in writing that the data are desired for analysis.

(f) *Relationship to other laws.* Nothing in this section is intended to alter the legal authority of law enforcement officials investigating potential violation(s) of State criminal law(s), and nothing in this chapter is intended to alter in any way the priority of National Transportation Safety Board investigations under 49 U.S.C. 1131 and 1134, nor the authority of the Secretary of Transportation to investigate railroad accidents under 49 U.S.C. 5121, 5122, 20107, 20111, 20112, 20505, 20702, 20703, and 20902.

(g) *Disabling event recorders.* Except as provided in paragraph (c) of this section, any individual who willfully disables an event recorder is subject to civil penalty and to disqualification from performing safety-sensitive functions on a railroad as provided in § 218.55 of this chapter, and any individual who tampers with or alters the data recorded by such a device is subject to a civil penalty as provided in appendix B of part 218 of this chapter and to disqualification from performing safety-sensitive functions on a railroad if found unfit for such duties

§ 229.137

49 CFR Ch. II (10–1–12 Edition)

under the procedures in part 209 of this chapter.

[45 FR 21109, Mar. 31, 1980, as amended at 75 FR 2697, Jan. 15, 2010]

§ 229.137 Sanitation, general requirements.

(a) *Sanitation compartment.* Except as provided in paragraph (b) of this section, all lead locomotives in use shall be equipped with a sanitation compartment. Each sanitation compartment shall be:

- (1) Adequately ventilated;
- (2) Equipped with a door that:
 - (i) Closes, and
 - (ii) Possesses a modesty lock by [18 months after publication of the final rule];
- (3) Equipped with a toilet facility, as defined in this part;
- (4) Equipped with a washing system, as defined in this part, unless the railroad otherwise provides the washing system to employees upon reporting for duty or occupying the cab for duty, or where the locomotive is equipped with a stationary sink that is located outside of the sanitation compartment;
- (5) Equipped with toilet paper in sufficient quantity to meet employee needs, unless the railroad otherwise provides toilet paper to employees upon reporting for duty or occupying the cab for duty; and
- (6) Equipped with a trash receptacle, unless the railroad otherwise provides portable trash receptacles to employees upon reporting for duty or occupying the cab for duty.

(b) *Exceptions.* (1) Paragraph (a) of this section shall not apply to:

(i) Locomotives engaged in commuter service or other short-haul passenger service and commuter work trains on which employees have ready access to railroad-provided sanitation facilities outside of the locomotive or elsewhere on the train, that meet otherwise applicable sanitation standards, at frequent intervals during the course of their work shift;

(ii) Locomotives engaged in switching service on which employees have ready access to railroad-provided sanitation facilities outside of the locomotive, that meet otherwise applicable sanitation standards, at frequent inter-

vals during the course of their work shift;

(iii) Locomotives engaged in transfer service on which employees have ready access to railroad-provided sanitation facilities outside of the locomotive, that meet otherwise applicable sanitation standards, at frequent intervals during the course of their work shift;

(iv) Locomotives of Class III railroads engaged in operations other than switching service or transfer service, that are not equipped with a sanitation compartment as of June 3, 2002. Where an unequipped locomotive of a Class III railroad is engaged in operations other than switching or transfer service, employees shall have ready access to railroad-provided sanitation facilities outside of the locomotive that meet otherwise applicable sanitation standards, at frequent intervals during the course of their work shift, or the railroad shall arrange for enroute access to such facilities;

(v) Locomotives of tourist, scenic, historic, or excursion railroad operations, which are otherwise covered by this part because they are not propelled by steam power and operate on the general railroad system of transportation, but on which employees have ready access to railroad-provided sanitation facilities outside of the locomotive, that meet otherwise applicable sanitation standards, at frequent intervals during the course of their work shift; and

(vi) Except as provided in § 229.14 of this part, DMU, MU, and control cab locomotives designed for passenger occupancy and used in intercity push-pull service that are not equipped with sanitation facilities, where employees have ready access to railroad-provided sanitation in other passenger cars on the train at frequent intervals during the course of their work shift.

(2) Paragraph (a)(3) of this section shall not apply to:

(i) Locomotives of a Class I railroad which, prior to [the effective date of this section], were equipped with a toilet facility in which human waste falls via gravity to a holding tank where it is stored and periodically emptied, which does not conform to the definition of toilet facility set forth in this